

104TH CONGRESS
1ST SESSION

S. 844

To replace the Medicaid Program with a block grant to the States, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 15), 1995

Mr. ASHCROFT (for himself, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. SMITH, Mr. INHOFE, and Mr. KEMPTHORNE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To replace the Medicaid Program with a block grant to
the States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicaid Flexibility
5 Act of 1995”.

6 **SEC. 2. BLOCK GRANTS TO THE STATES FOR HEALTH CARE**
7 **SERVICES TO NEEDY INDIVIDUALS.**

8 Title XIX of the Social Security Act (42 U.S.C.
9 1396–1396V) is amended to read as follows:

1 **“TITLE XIX—BLOCK GRANTS TO STATES**
2 **FOR HEALTH CARE SERVICES TO**
3 **NEEDY INDIVIDUALS**

4 “PURPOSE; IMPLEMENTATION

5 “SEC. 1901. (a) PURPOSE.—The purpose of this title
6 is to strengthen families by helping them move from de-
7 pendence on government benefits to economic independ-
8 ence by consolidating Federal assistance to the States for
9 health care services and assistance to needy individuals
10 into a single grant for such purpose, thereby giving States
11 maximum flexibility to—

12 “(1) require beneficiaries who are parents to
13 ensure that their school-age children attend school;

14 “(2) require minors who are beneficiaries to at-
15 tend school;

16 “(3) require parent beneficiaries to ensure that
17 their children receive the full complement of child-
18 hood immunizations;

19 “(4) limit the amount of time able-bodied bene-
20 ficiaries may receive assistance;

21 “(5) require beneficiaries not to use illegal
22 drugs or abuse other drugs;

23 “(6) require each mother to identify the father
24 of any child for whom she seeks assistance;

25 “(7) deny assistance to illegal aliens;

1 “(8) require individuals who sponsor the resi-
 2 dency of legal aliens to support those they sponsor;
 3 and

4 “(9) involve religious and charitable organiza-
 5 tions, voluntary associations, civic groups, commu-
 6 nity organizations, nonprofit entities, benevolent and
 7 fraternal orders, philanthropic entities, and other
 8 groups in the private sector, as appropriate, in the
 9 provision of health care services and assistance to
 10 needy individuals with the funding States receive
 11 under this title.

12 “(b) IMPLEMENTATION.—This purpose shall be im-
 13 plemented in accordance with conditions in each State and
 14 as determined by State law.

15 “PAYMENTS TO STATES

16 “SEC. 1902. (a) AMOUNT.—

17 “(1) IN GENERAL.—Each State shall, subject to
 18 the requirements of this title, be entitled to receive
 19 quarterly payments for fiscal years 1996, 1997,
 20 1998, 1999, and 2000 in an amount equal to 25
 21 percent of the annual amount determined under
 22 paragraph (2) for such fiscal year for carrying out
 23 the purpose described in section 1901.

24 “(2) ANNUAL AMOUNT.—The annual amount
 25 determined under this paragraph is equal to—

1 “(A) in fiscal year 1996, 105 percent of
2 the amount received by a State in fiscal year
3 1995 under this title (as in effect in fiscal year
4 1995); and

5 “(B) in each fiscal year thereafter, 105
6 percent of the amount received by a State in
7 the preceding fiscal year under this title (as in
8 effect in such preceding fiscal year).

9 “(b) FUNDING REQUIREMENTS.—The Secretary of
10 the Treasury shall make quarterly payments described in
11 subsection (a)(1) directly to each State in accordance with
12 section 6503 of title 31, United States Code.

13 “(c) EXPENDITURE OF FUNDS; RAINY DAY FUND.—
14 Amounts received by a State under this title for any fiscal
15 year shall be expended by the State in such fiscal year
16 or in the succeeding fiscal year; except for such amounts
17 as the State deems necessary to set aside in a separate
18 account to provide, without fiscal limitation, for unex-
19 pected levels of assistance during periods of high unem-
20 ployment or other events which cause unexpected increases
21 in the need for health care services or assistance for needy
22 individuals. Any amounts remaining in such segregated
23 accounts after fiscal year 2000 shall be expended by a
24 State for the purpose described in section 1901 of this
25 title as in effect in fiscal year 2000.

1 “(d) AUTHORITY TO USE PORTION OF GRANT FOR
2 OTHER PURPOSES.—

3 “(1) IN GENERAL.—A State may use not more
4 than 30 percent of the annual amount paid to the
5 State under this title for a fiscal year to carry out
6 a State program pursuant to any or all of the follow-
7 ing provisions of law:

8 “(A) Part A of title IV of this Act.

9 “(B) Title XVI of this Act.

10 “(C) The Food Stamp Act.

11 “(2) APPLICABLE RULES.—Any amount paid to
12 the State under this title that is used to carry out
13 a State program pursuant to a provision of law spec-
14 ified in paragraph (1) shall not be subject to the re-
15 quirements of this title, but shall be subject to the
16 requirements that apply to Federal funds provided
17 directly under the provision of law to carry out the
18 program.

19 “ADMINISTRATIVE AND FISCAL ACCOUNTABILITY

20 “SEC. 1903. (a) AUDITS; REIMBURSEMENT.—

21 “(1) AUDITS.—

22 “(A) IN GENERAL.—A State shall, not less
23 than annually, audit the State expenditures
24 from amounts received under this title. Such
25 audit shall—

1 “(i) determine the extent to which
2 such expenditures were or were not ex-
3 pended in accordance with this title; and

4 “(ii) be conducted by an approved en-
5 tity (as defined in subparagraph (B)) in
6 accordance with generally accepted audit-
7 ing principles.

8 “(B) APPROVED ENTITY.—For purposes of
9 subparagraph (A), the term ‘approved entity’
10 means an entity that is—

11 “(i) approved by the Secretary of the
12 Treasury;

13 “(ii) approved by the chief executive
14 officer of the State; and

15 “(iii) independent of any agency ad-
16 ministering activities or services funded
17 under this title.

18 “(2) REIMBURSEMENT.—

19 “(A) IN GENERAL.—Not later than 30
20 days following the completion of an audit under
21 this subsection, a State shall submit a copy of
22 the audit to the State legislature and to the
23 Secretary of the Treasury.

24 “(B) REPAYMENT.—Each State shall pay
25 to the United States amounts ultimately found

1 by the approved entity under paragraph (1)(A)
2 not to have been expended in accordance with
3 this title plus 10 percent of such amount as a
4 penalty, or the Secretary of the Treasury may
5 offset such amounts plus the 10 percent penalty
6 against any other amount in any other year
7 that the State may be entitled to receive under
8 this title.

9 “(b) ADDITIONAL ACCOUNTING REQUIREMENTS.—
10 The provisions of chapter 75 of title 31, United States
11 Code, shall apply to the audit requirements of this section.

12 “(c) REPORTING REQUIREMENTS; FORM, CON-
13 TENTS.—

14 “(1) ANNUAL REPORTS.—A State shall prepare
15 comprehensive annual reports on the activities car-
16 ried out with amounts received by the State under
17 this title.

18 “(2) CONTENT.—Reports prepared under this
19 section—

20 “(A) shall be for the most recently com-
21 pleted fiscal year;

22 “(B) shall be in accordance with generally
23 accepted accounting principles, including the
24 provisions of chapter 75 of title 31, United
25 States Code;

1 “(C) shall include the results of the most
 2 recent audit conducted in accordance with the
 3 requirements of paragraph (a) of this section;
 4 and

5 “(D) shall be in such form and contain
 6 such other information as the State deems nec-
 7 essary—

8 “(i) to provided an accurate descrip-
 9 tion of such activities; and

10 “(ii) to secure a complete record of
 11 the purposes for which amounts were ex-
 12 pended in accordance with this title.

13 “(3) COPIES.—A State shall make copies of the
 14 reports required under this section available for pub-
 15 lic inspection within the State. Copies also shall be
 16 provided upon request to any interested public agen-
 17 cy, and each such agency may provide its views on
 18 such reports to the Congress.

19 “(d) ADMINISTRATIVE SUPERVISION.—

20 “(1) ROLE OF THE SECRETARY OF THE TREAS-
 21 URY.—

22 “(A) IN GENERAL.—The Secretary of the
 23 Treasury shall supervise the amounts received
 24 under this title in accordance with subpara-
 25 graph (B).

1 “(B) LIMITED SUPERVISION.—The super-
2 vision by the Secretary of the Treasury shall be
3 limited to—

4 “(i) making quarterly payments to the
5 States in accordance with section 1902(b);

6 “(ii) approving the entities referred to
7 in subsection (a)(1)(B); and

8 “(iii) withholding payment to a State
9 based on the findings of such an entity in
10 accordance with subsection (a)(2)(B).

11 “(2) OTHER FEDERAL SUPERVISION.—No ad-
12 ministrative officer or agency of the United States,
13 other than the Secretary of the Treasury and, as
14 provided for in section 1904, the Attorney General,
15 shall supervise the amounts received by the States
16 under this title or the use of such amounts by the
17 States.

18 “(e) LIMITED FEDERAL OVERSIGHT.—With the ex-
19 ception of the Department of the Treasury as provided
20 for in this section and section 1904 of this title, no Fed-
21 eral department or agency may promulgate regulations or
22 issue rules regarding the purpose of this title.

23 “NONDISCRIMINATION PROVISIONS

24 “SEC. 1904. (a) NO DISCRIMINATION AGAINST INDIV-
25 IDUALS.—No individual shall be excluded from participa-
26 tion in, denied the benefits of, or subjected to discrimina-

1 tion under any program or activity funded in whole or in
2 part with amounts received under this title on the basis
3 of such individual's—

4 “(1) disability under section 504 of the Reha-
5 bilitation Act of 1973 (29 U.S.C. 794);

6 “(2) sex under title IX of the Education
7 Amendments of 1972 (20 U.S.C. 1681 et seq.); or

8 “(3) race, color, or national origin under title
9 VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d
10 et seq.).

11 “(b) COMPLIANCE.—If the Secretary of the Treasury
12 determines that a State, or an entity that has received
13 funds from amounts received by the State under this title,
14 has failed to comply with a provision of law referred to
15 in subsection (a), except as provided for in section 1905
16 of this title, the Secretary of the Treasury shall notify the
17 chief executive officer of the State and shall request the
18 officer to secure compliance with such provision of law.
19 If, not later than 60 days after receiving such notification,
20 the chief executive officer fails or refuses to secure compli-
21 ance, the Secretary of the Treasury may—

22 “(1) refer the matter to the Attorney General
23 with a recommendation that an appropriate civil ac-
24 tion be instituted;

1 “(2) exercise the powers and functions provided
2 under title VI of the Civil Rights Act of 1964 (42
3 U.S.C. 2000d et seq.), title IX of the Education
4 Amendments of 1972 (20 U.S.C. 1681 et seq.); or
5 section 505 of the Rehabilitation Act of 1973 (29
6 U.S.C. 794a), (as applicable); or

7 “(3) take such other action as may be provided
8 by law.

9 “(c) AUTHORITY OF ATTORNEY GENERAL; CIVIL AC-
10 TIONS.—When a matter is referred to the Attorney Gen-
11 eral pursuant to subsection (b)(1), or if the Attorney Gen-
12 eral has reason to believe that an entity is engaged in a
13 pattern or practice in violation of a provision of law re-
14 ferred to in subsection (a), the Attorney General may
15 bring a civil action in an appropriate district court of the
16 United States for such relief as may be appropriate, in-
17 cluding injunctive relief.

18 “NONDISCRIMINATION AND INSTITUTIONAL SAFEGUARDS
19 FOR RELIGIOUS PROVIDERS

20 “SEC. 1905. (a) PURPOSE.—The purpose of this sec-
21 tion is to allow the participation of religious and charitable
22 organizations as providers of health care services and as-
23 sistance under this title without impairing or diminishing
24 the religious character or freedom of such organizations.

25 “(b) NONDISCRIMINATION.—Religious organizations
26 are eligible as providers of health care services and assist-

1 ance as provided for under this title. Neither the Federal
2 Government nor a State receiving funds under this title
3 shall discriminate against an organization which is or ap-
4 plies to be a provider of health care services and assistance
5 on the basis that the organization has a religious mission
6 or purpose.

7 “(c) RELIGIOUS CHARACTER AND FREEDOM.—

8 “(1) IN GENERAL.—Notwithstanding any
9 other provision of law, any religious organization
10 participating as a provider of health care services
11 and assistance funded under this title shall retain its
12 independence from Federal, State, and local govern-
13 ments, including such organization’s control over the
14 definition, development, practice, and expression of
15 its religious beliefs. Such an organization may select,
16 employ, promote, discipline, and dismiss its clerics
17 and other ecclesiastics, directors, officers, employees,
18 and volunteers on the basis of religion, a religious
19 belief, or a religious practice. However, a religious
20 organization shall not deny a needy individual health
21 care services and assistance funded under this title
22 on the basis of religion, a religious belief, or refusal
23 to participate in a religious practice.

24 “(2) ADDITIONAL SAFEGUARDS.—Neither the
25 Federal Government nor a State shall require a reli-

1 religious provider of health care services and assistance
2 to—

3 “(A) alter its form of internal governance,
4 or form a separate, nonprofit corporation to re-
5 ceive and administer the assistance funded
6 under this title; or

7 “(B) alter real estate of facilities used to
8 provide such assistance, including but not lim-
9 ited to the removal of religious art, icons, scrip-
10 ture, or other symbols;

11 in order to be eligible to be a provider of health care
12 services and assistance funded under this title.

13 “(3) FISCAL ACCOUNTABILITY.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), any religious organization
16 providing assistance funded under this title
17 shall be subject to the same regulations as
18 other providers to account in accord with gen-
19 erally accepted auditing principles for the use of
20 such funds provided under this title.

21 “(B) LIMITED AUDIT.—Religious organiza-
22 tions may segregate Federal funds provided
23 under this title into separate accounts, and then
24 only the financial assistance provided with those
25 funds shall be subject to audit.

1 “(d) COMPLIANCE.—A religious organization which
2 has its rights under this section violated may enforce its
3 claim by asserting a civil action for such relief as may
4 be appropriate, including injunctive relief or damages, in
5 an appropriate district court of the United States against
6 the entity or agency that commits such violation.

7 “(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

8 “(1) IN GENERAL.—If a beneficiary has a bona
9 fide objection to the religious character of the orga-
10 nization or institution from which the beneficiary is
11 receiving health care services and assistance funded
12 under this title, each State shall provide such bene-
13 ficiary a certificate, redeemable with any other pro-
14 vider of assistance funded under this title, for serv-
15 ices the value of which is no less than the value of
16 the funding received by the religious provider from
17 a State to provide assistance funded under this title
18 for such individual.

19 “(2) PROHIBITION ON PROVIDING CASH IN EX-
20 CHANGE FOR CERTIFICATES.—No provider of assist-
21 ance funded under this title shall provide a bene-
22 ficiary a cash amount in exchange for a certificate
23 provided for under paragraph (1).

24 “EMERGENCY ASSISTANCE

25 “SEC. 1906. (a) IN GENERAL.—Health care services
26 and assistance funded under this title must be provided

1 to a citizen, legal resident, or an alien who is not lawfully
2 admitted for permanent residence or otherwise perma-
3 nently residing in the United States under color of law,
4 if—

5 “(1) such services and assistance are necessary
6 for the treatment of an emergency medical condition;

7 “(2) such person otherwise meets the eligibility
8 requirements for health care services and assistance
9 under the State program funded under this title;
10 and

11 “(3) such services and assistance are not relat-
12 ed to an organ transplant procedure.

13 “(b) EMERGENCY MEDICAL CONDITION.—For pur-
14 poses of this section, the term ‘emergency medical condi-
15 tion’ means a medical condition (including emergency
16 labor and delivery) manifesting itself by acute symptoms
17 of sufficient severity (including severe pain) such that the
18 absence of immediate medical attention could reasonably
19 be expected to result in—

20 “(1) placing the patient’s health in serious jeop-
21 ardy;

22 “(2) serious impairment to bodily functions; or

23 “(3) serious dysfunction of any bodily organ or
24 part.”.

1 **SEC. 3. CONFORMING AMENDMENTS TO THE BUDGET ACT.**

2 Section 255(h) of the Balanced Budget and Emer-
3 gency Deficit Control Act of 1985 (2 U.S.C. 905(h)) is
4 amended by striking “Grants to States for Medicaid (75-
5 0512-0-1-551);” and inserting “Block grants to States
6 for health care services to needy individuals;”.

7 **SEC. 4. EFFECTIVE DATE.**

8 The amendments made by this Act shall take effect
9 on October 1, 1995.

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